

Amendment No. 1 to HB1997

Keisling
Signature of Sponsor

AMEND Senate Bill No. 1936*

House Bill No. 1997

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-5-301(b), is amended by deleting the language:

An administrative judge or hearing officer shall, upon the judge's or the officer's own motion, or timely motion of a party, decide any procedural question of law.

and substituting the following:

An administrative judge or hearing officer shall decide a procedural question of law.

SECTION 2. Tennessee Code Annotated, Section 4-5-306(a)(1), is amended by deleting the language ", upon the administrative judge's or the hearing officer's own motion, or upon the motion of one (1) of the parties or such party's qualified representatives,".

SECTION 3. Tennessee Code Annotated, Section 4-5-311(a), is amended by inserting the following language after the first sentence:

The director of the administrative procedures division of the secretary of state's office may issue subpoenas on behalf of an administrative judge employed by the secretary of state.

SECTION 4. Tennessee Code Annotated, Section 4-5-312(c), is amended by deleting the subsection and substituting the following:

(c) The administrative judge or hearing officer and agency members may, by agreement of the parties, conduct all or part of the hearing telephonically, electronically, or by audio-visual means if each participant in the hearing has an opportunity to

participate in, hear, and, if technically feasible, see the entire proceedings while the proceedings are taking place. Notwithstanding this authority, the administrative judge or hearing officer may permit the testimony of a witness by contemporaneous audio-visual transmission from a different location when the absence of the witness would otherwise cause a delay to the hearing.

SECTION 5. Tennessee Code Annotated, Section 4-5-312(d), is amended by deleting the subsection and substituting the following:

(d) The hearing must be open to public observation pursuant to title 8, chapter 44, unless otherwise provided by state or federal law. To the extent that a hearing is conducted telephonically, electronically, or by audio-visual means, the availability of public observation may be satisfied by giving members of the public an opportunity, at reasonable times, to hear or view a recording, as applicable, and to inspect a transcript obtained by the agency, except as otherwise provided by § 50-7-701.

SECTION 6. Tennessee Code Annotated, Section 4-5-314(g), is amended by deleting the subsection and substituting the following:

(g) Unless the period is waived or extended with the written consent of all parties or for good cause shown, a final order rendered under subsection (a) or an initial order rendered under subsection (b) must be rendered in writing within ninety (90) days of:

(1) The filing of the tape recording, stenographic notes or symbols, or transcript of the hearing, if requested on the record by the administrative judge or hearing officer, or the filing of the proposed findings in accordance with subsection (f). If both are filed, then the order must be rendered within ninety (90) days of the latter filing; or

(2) The completion of the hearing, if neither of the filings in subdivision (g)(1) are requested by the administrative judge or hearing officer.

SECTION 7. Tennessee Code Annotated, Section 4-5-317(a), is amended by deleting the subsection and substituting the following:

(a) A party, within fifteen (15) days after entry of an initial or final order, may file a petition for reconsideration, stating the specific grounds upon which relief is requested. A petition for reconsideration of a final order that has become a final order by operation of law when no party timely filed a petition for reconsideration of an initial order or when the petition for reconsideration of an initial order was denied is not permitted. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

SECTION 8. Tennessee Code Annotated, Section 4-5-318(d), is amended by deleting the subsection and substituting the following:

(d) A party is not required to comply with a final order unless the final order has been mailed to the last known address of the party or the party's attorney, the final order has been delivered by electronic means to the last known electronic address of the party or the party's attorney, or the party has actual knowledge of the final order.

SECTION 9. Tennessee Code Annotated, Section 4-5-319(c), is amended by deleting the subsection and substituting the following:

(c) A record, which may consist of a tape, electronic recording, or digital recording, must be made of all oral proceedings. Such record or a part thereof must be transcribed on request of a party at such party's expense or may be transcribed by the agency at the agency's expense. If the agency elects to transcribe the proceedings, then a party must be provided copies of the transcript upon payment to the agency of a reasonable compensatory fee. Notwithstanding the requirement to make a record of all oral proceedings, a record of a prehearing conference is not required to be made.

SECTION 10. Tennessee Code Annotated, Section 4-5-321(a)(3), is amended by deleting the subdivision and renumbering the subsequent subdivisions accordingly.

SECTION 11. Tennessee Code Annotated, Section 4-5-321(b), is amended by deleting the language "a manual of".

SECTION 12. Tennessee Code Annotated, Section 4-5-325, is amended by deleting the language "administrative law judge" wherever it appears and substituting the language "administrative judge".

SECTION 13. This act takes effect July 1, 2022, the public welfare requiring it.